

AMENDED IN ASSEMBLY JUNE 30, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 26, 2005

AMENDED IN SENATE MARCH 31, 2005

SENATE BILL

No. 419

Introduced by Senator Simitian

February 17, 2005

An act to add Chapter 6.95.1 (commencing with Section 25546) to Division 20 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

SB 419, as amended, Simitian. Hazardous materials: transportation: railroad tank cars.

Existing law prohibits any person from transporting hazardous waste in this state unless the person holds a valid registration issued by the Department of Toxic Substances Control. Existing law requires a railroad corporation transporting hazardous materials to submit to the Public Utilities Commission, a system map containing information, as specified, and to the Office of Emergency Services a copy of a publication that identifies emergency handling guidelines for surface transportation of hazardous material.

Existing law requires, in the event of a release or threatened release of hazardous material from a railcar, a railroad corporation to provide information to the emergency response agency, as specified. Existing law requires the Public Utilities Commission to submit to the Legislature a report on railroad line sites that it finds to be hazardous with information, as specified.

Existing law requires businesses that handle hazardous materials to maintain an inventory of hazardous materials and to prepare a business plan relating to the handling and the response to a release or threatened release of hazardous materials.

This bill would require the Office of Emergency Services to create and maintain a hazardous rail tank car database, which would contain specified information, including a current certificate of compliance provided by the legal owner or lessee of the rail tank car stating that the rail tank car meets certain standards. The bill would authorize the office to charge a rail tank car owner or lessee a fee sufficient to maintain the database and would provide that a rail tank car that is listed on the database is a registered hazardous tank car. The bill would require the legal owner *or lessee* of a hazardous rail tank car to present *to an official of the railroad, at the point of transfer for the hazardous tank car*, the certificate of compliance when delivering a hazardous tank car containing certain hazardous materials to a railroad.

The bill would prohibit the delivery of certain hazardous materials above certain threshold quantities, as specified, by rail, unless the hazardous material is transported in a hazardous tank car registered with the office.

The bill would require the office to apply for a waiver, if the office determines that the bill's requirements could be preempted by the federal Hazardous Materials Transportation Authorization Act of 1994.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6.95.1 (commencing with Section
2 25546) is added to Division 20 of the Health and Safety Code, to
3 read:

4
5 CHAPTER 6.95.1. TRANSPORTATION OF ~~ULTRAHAZARDOUS~~
6 HAZARDOUS MATERIALS
7

8 25546. The Legislature finds and declares all of the
9 following:

1 (a) The federal government has not acted to prevent the
2 terrorist threat resulting from the transportation of dangerous
3 quantities of ultrahazardous materials through highly populated
4 urban corridors.

5 (b) A terrorist attack on a shipment of, or an accidental leak of,
6 poisonous gas inhalants in the state could result in tens of
7 thousands of deaths and economic damage in the billions of
8 dollars.

9 (c) Requiring rail tank cars to contain containment
10 technologies certified as appropriate by the American Society of
11 Mechanical Engineers to ship ultrahazardous materials through
12 an urban corridor causes no significant impact on interstate
13 commerce.

14 (d) The citizens of the state should have a reasonable
15 expectation that hazardous materials are being shipped in the
16 safest manner possible.

17 (e) One-half of the nation's approximately 60,000 chemical
18 tank cars do not meet industry safety standards as of 2004.

19 (f) Puncture resistant tank cars are available today to the
20 railroad and chemical industries and their use would greatly
21 enhance security and public safety.

22 (g) In March of 2005, in Salt Lake City, Utah, a railcar leaking
23 toxic chemicals sent plumes of gas into the air, forcing the
24 evacuation of more than 6,000 people. Fifteen hours after the
25 discovery of the leak, officials still were not certain of the
26 contents of the leaking tanker. Officials could not determine from
27 the owner of the tanker what was in the tanker and at what
28 concentration.

29 (h) On January 6, 2005, two freight trains collided in
30 Graniteville, South Carolina, approximately 10 miles northeast of
31 Augusta, Georgia, releasing an estimated 11,500 gallons of
32 chlorine gas, which caused nine deaths and sent at least 529
33 persons seeking medical treatment for possible chlorine
34 exposure.

35 (i) In June of 2004, a moving train struck a stationary train at a
36 rail substation in Texas, causing a derailment. One tanker car was
37 punctured, releasing approximately 90,000 pounds of chlorine
38 gas. At least 60,000 pounds of chlorine gas reacted with sodium
39 hydroxide to form sodium hypochlorite, a corrosive. Also
40 released were approximately 78,000 gallons of urea fertilizer and

1 7,000 gallons of diesel fuel, which when mixed form an
2 explosive mixture. Forty-four persons were injured, including
3 three who died.

4 (j) In August of 2002, approximately 16,900 pounds of
5 chlorine gas were released from a railroad tanker car when a flex
6 hose ruptured during unloading at a chemical plant in Missouri.
7 An automatic shutoff valve on the car and an emergency shutoff
8 system at the plant failed to work as backup prevention measures.
9 Sixty-seven persons were injured.

10 (k) The Cantera Loop, five miles north of Dunsmuir,
11 California, was the site of a tragic derailment and toxic chemical
12 spill in 1991. That spill killed everything in the river for 40
13 miles, including the wild trout population. The spill was
14 contained just before it reached Shasta Lake, 43 miles to the
15 south, a major drinking water supply for much of the state. In
16 addition to the destruction to the environment, the tourism
17 dependent economy of the Sacramento River Canyon was
18 devastated. Businesses in Dunsmuir closed and real estate value
19 in Dunsmuir plummeted. Dunsmuir almost became a ghost town.
20 Recovery of the fishery took 10 years and Dunsmuir is just
21 showing signs of becoming a tourist destination.

22 (l) Again in July of 2003, an 86-car Union Pacific freight train
23 derailed three miles north of Dunsmuir. Fifteen cars jumped the
24 track and a few ended up in the Sacramento River. At the time of
25 the derailment, the cars in the river were empty.

26 (m) On January 15, 2005, the Centers for Disease Control and
27 Prevention issued a report on the South Carolina accident
28 recommending that government officials and private companies
29 “route hazardous materials away from densely populated areas,
30 where feasible” to reduce risks.

31 (n) The federal government considers these ultrahazardous
32 cargoes as “potential weapons of mass destruction,” and very
33 attractive targets for terrorists. A study by the Naval Research
34 Laboratory reveals that 100 people per second could die if a
35 terrorist were to blow up a tank car full of chlorine gas.

36 (o) Since September 11, 2001, the federal government has
37 taken swift action to standardize and heighten security measures
38 throughout our nation’s airports and airlines, but have left our
39 nation’s railroads virtually untouched.

1 (p) A 2003 Government Accounting Office report concluded
2 that it is unclear whether or not the railroad companies' own
3 initiatives have effectively deterred terrorism because there are
4 no federal standards.

5 25546.1. For the purposes of this chapter, the following terms
6 have the following meanings:

7 (a) "Federal act" means the Hazardous Materials
8 Transportation Authorization Act of 1994 (Chapter 51
9 (commencing with Section 5101) of Title 49 of the United States
10 Code), as amended.

11 (b) "Office" means the Office of Emergency Services.

12 (c) "Person" has the same meaning as defined in Section
13 25118.

14 (d) "Registered hazardous tank car" means a rail tank car
15 listed on the database created pursuant to Section 25546.2.

16 ~~(e) "Ultra-hazardous material" means those materials identified~~
17 ~~in Sections 173.2, 173.116, and 173.133 of Title 49 of the Code~~
18 ~~of Federal Regulations.~~

19 25546.2. (a) The office shall create and maintain a hazardous
20 rail tank car database, which shall contain all of the following
21 information:

22 (1) A registration number and year of manufacture for a rail
23 tank car that will transport a hazardous material specified in
24 Section 25546.3 in or through California.

25 (2) A current certificate of compliance provided by the legal
26 owner or lessee of the rail tank car stating that the rail tank car
27 meets both of the following standards:

28 (A) The rail tank car is in compliance with the most recently
29 adopted construction and safety standards for a rail tank car
30 adopted by the American Association of Railroads, M1002,
31 regardless of the date of manufacture of the rail tank car.

32 (B) The rail tank car is in compliance with Part 105
33 (commencing with Section 105.5) to Part 180 (commencing with
34 Section 180.1), inclusive, of Chapter I of Subtitle B of Title 49 of
35 the Code of Federal Regulations.

36 (b) The owner or lessee of a rail tank car shall annually renew
37 the certificate specified in paragraph (2) of subdivision (a).

38 (c) The office may charge the rail tank car owner or lessee a
39 fee sufficient to maintain the database for hazardous tank car
40 registrants.

(d) The legal owner *or lessee* of a registered hazardous tank car shall present *to an official of the railroad, at the point of transfer for the hazardous tank car*, the certificate of compliance specified in paragraph (2) of subdivision ~~(b)~~ (a) when delivering a hazardous tank car containing a hazardous material specified in Section 25546.3 to a railroad.

(e) If the office determines that a requirement imposed pursuant to this chapter could be preempted by the federal act, the office shall apply to the Secretary of Transportation for a waiver of preemption pursuant to subsection (e) of Section 5125 of Title 49 of the United States Code.

25546.3. It is unlawful for a person to deliver for transport by rail through or in the state, any of the following, unless the hazardous material is transported in a hazardous tank car registered with the office pursuant to Section 25546.2:

(a) Explosives of class 1, division 1.1, or class 1, division 1.2, as designated in Section 173.2 of Title 49 of the Code of Federal Regulations, in a quantity greater than 500 kilograms.

(b) Flammable gases of class 2, division 2.1, as designated in Section 173.2 of Title 49 of the Code of Federal Regulations, in a quantity greater than 10,000 liters.

(c) Poisonous gases of class 2, division 2.3, as designated by Section 173.2 of Title 49 of the Code of Federal Regulations and belonging to hazardous zone A or B as defined in Section 173.116 of Title 49 of the Code of Federal Regulations, in a quantity greater than 500 liters.

(d) Poisonous material, other than gases, of class 6, division 6.1, or class 1, division 1.2, as designated by Section 173.2 of Title 49 of the Code of Federal Regulations and belonging to hazardous zone A or B as defined in Section 173.133 of Title 49 of the Code of Federal Regulations, in a quantity greater than 1,000 kilograms.

SEC. 2. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.